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SEP 30 2003

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September 22, 2003

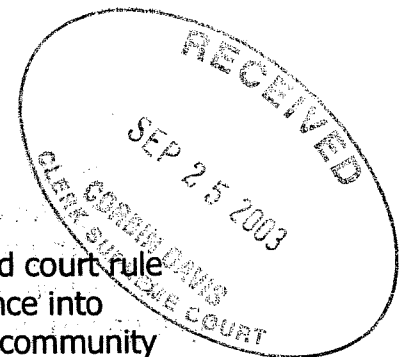
Mr. Corbin R. Davis
Clerk of the Supreme Court
Michigan Hall of Justice
925 W. Ottawa
P.O. Box 30052
Lansing, MI 48909

Dear Mr. Davis,

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These comments are being submitted in support of the proposed court rule change that would allow an offender's history of domestic violence into evidence at trial. While serving as a prosecutor in a small rural community in the Upper Peninsula for the past 10 years, I have been consistently frustrated by the laws pertaining to domestic violence. Despite our best efforts to "do the right thing," when it comes to trying to hold offenders accountable for domestic violence, it is often like trying to roll the proverbial boulder uphill, only to see it inevitably come rolling back on top of us. Between the typical recanting victim who is entrenched in a cycle of violence and the current laws, which place severe limitations on evidence of past abuse, victims of domestic violence are often re-victimized when we are unable to hold offenders accountable. Unfortunately, we fear that the abuse is often worse after we attempt to convict the offender at trial against the wishes of the victim.

The current laws place law enforcement in a precarious professional and ethical dilemma. Do we honor the typical wishes of the victim and dismiss the charge to minimize the retribution by the offender, or do we take our shot at the offender and try to convict him knowing that the odds are stacked against us with a recalcitrant victim? Through years of experience, we have learned that offenders often feel vindicated when they are acquitted as if the jury has put a stamp of approval on their violent behavior. Perhaps even worse,



victims who have suffered the abuse feel even more helpless than before, and are not likely to call for help during the next violent episode.

As prosecutors, we deal with these decisions on a daily basis and are forced to make difficult choices as a result of the current laws. The new proposal would provide information to a jury that is both relevant and probative to their ultimate decision. I understand that there is a fear of "opening the floodgates" with respect to prior bad acts. However, when you fully understand the dynamics of domestic violence, it becomes obvious that changes needed to be made with respect to the evidence that should be admissible at trial. Three states have already adopted the same changes that the State of Michigan is now considering, and I would encourage the Court to whole-heartedly adopt these changes. It is imperative if we are to have any success in rehabilitating and educating perpetrators of domestic violence. It is also essential in the struggle to help victims break the cycle of violence and allow them the opportunity to help themselves. Finally, the proposed change would provide some much needed fundamental fairness to these unique cases and will ultimately result in more victims receiving justice in the State of Michigan.

Thank you in advance for your time and consideration of these comments. Please do not hesitate to contact me with any questions or if I can be of any assistance to you in this matter.

Sincerely,



Christopher S. Ninomiya

Dickinson County Prosecuting Attorney